

STATE OF MICHIGAN
COURT OF APPEALS

In re MOORE/DENNINGS, Minors.

UNPUBLISHED
June 14, 2016

No. 329104
Wayne Circuit Court
Family Division
LC No. 08-483352-NA

Before: TALBOT, C.J., and MURRAY and SERVITTO, JJ.

PER CURIAM.

Respondent appeals by right the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been proven by clear and convincing evidence. *In re Trejo*, 462 Mich 341, 360; 612 NW2d 407 (2000); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991). Respondent's parental rights were terminated under MCL 712A.19b(3)(c)(i), (g), and (j), which provide:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

* * *

(j) There is a reasonable likelihood, based on the conduct or capacity of the child's parent, that the child will be harmed if he or she is returned to the home of the parent.

Respondent contends that because he completed two sets of parenting classes, completed his psychological and psychiatric evaluations, and participated in therapy the court made a mistake in terminating his parental rights. Further, respondent contends that the Department of Health and Human Services (DHHS) did not provide adequate services to meet respondent's special needs.

We hold that there was clear and convincing evidence to support termination under MCL 712A.19b(3)(c)(i). The facts found by the trial court show that the children were removed on March 21, 2013, and the termination hearing began on June 29, 2015. Thus, more than 182 days had elapsed since the issuance of the initial dispositional order. After the children were removed, respondent made admissions that his home was filthy and cluttered, that clothing, dirty dishes, and garbage were found throughout the home, and that there was a strong smell of urine. He acknowledged that the home was interfering with the children's safety. The five children's hair, bodies, and clothing were dirty, and they smelled of body odor and urine. The children had previously been removed in 2010 because of allegations of physical abuse and neglect, and respondent and the mother had been offered services. Respondent also admitted that he had a learning disability, which interfered with his ability to properly care for his children.

A parent/agency agreement required that respondent provide suitable housing and maintain a legal source of income, take psychological and psychiatric assessments and follow the recommendations, participate in individual and family counseling, take a parenting class, attend parenting time and court hearings, and maintain contact with the worker. By the time of the termination hearing more than two years later, respondent still did not have suitable housing. He had lived with various friends and relatives, and his life was unsettled and chaotic. When respondent and the mother separated, he lived with a girlfriend and was planning to care for the children with the help of his girlfriend. Then he and the children's mother got back together, but by the time of the termination hearing they were again separated and planning for the children separately. Between the government benefits he and the children received, income was found by the trial court not to be an issue.

Respondent had taken two sessions of parenting classes and participated in individual therapy, but the reports from the teachers and therapists were that he had made little to no progress. The teachers and psychologists reported that he was unable to learn what they were teaching. Respondent showed no improvement in his parenting, as he was unable to control the children at visitation and had to be constantly redirected by the workers. Therefore, he never was permitted unsupervised visitation with the children. At the same time, however, respondent claimed that he did not need parenting classes because he knew how to care for the children, thus demonstrating a lack of understanding and comprehension concerning good parenting. Importantly, the trial court did not authorize an early termination petition and the DHHS withdrew another, each time to provide respondent with additional services and time to improve. However, as the trial court found, after more than two years it was clear that respondent's parenting skills had not improved and he was not in a position to provide for the children.

Contrary to respondent's argument, the record shows that respondent was provided with much help in finding housing. However, he rejected the affordable housing that had been presented to him because he did not like the neighborhood. Then he became involved with a "Reverend Lane," who promised respondent cheap housing in return for work, but that turned out to be a scam. This latter factor held up DHHS efforts to find respondent appropriate housing. Nevertheless, respondent was expected to take some initiative to use the information that had been provided to him and to maintain contact with the workers that were attempting to help him. After over two years, respondent did not have a suitable home where he could bring his children. Thus, the trial court did not clearly err in finding that the conditions that led to the adjudication continued to exist and there was no reasonable expectation that they would be rectified within a reasonable time considering the children's ages.

The same facts as found by the trial court support termination of respondent's parental rights under MCL 712A.19b(3)(g) and (j). Furthermore, although respondent attended most of the visitations, he was unable to control the children and the visits were chaotic. All five of the children had special needs that required unusual attention and care. Respondent had not attended doctors' appointments or school activities and evaluations to learn about their special needs. As a result, he did not understand how to manage and care for the special needs of his children. Unfortunately, despite the numerous services that had been offered to him and despite his completion and participation in those services, respondent did not have the capacity to improve his parenting skills, to learn the specific care required for each child's special needs, or to find proper housing. "[I]t is not enough to merely go through the motions; a parent must benefit from the services offered so that he or she can improve parenting skills to the point where the children would no longer be at risk in the parent's custody." *In re Gazella*, 264 Mich App 668, 676; 692 NW2d 708 (2005). Thus, the trial court did not clearly err in finding that there was a reasonable likelihood that the children would be harmed if they were returned to respondent.

Although DHHS got off to a slow start in servicing this case, services were put into place after the hearing on July 26, 2013, and for the following two years, services and help with housing were provided to respondent. The record shows that the DHHS made reasonable efforts to assist respondent to find housing, provided him with many services, and tried to accommodate respondent in every way. But respondent was unable to improve his parenting skills, find housing, or take the initiative to attend his children's doctors' appointments or school meetings. Culpability or blameworthiness is not required under the statute. See *In re Jacobs*, 433 Mich 24, 37; 444 NW2d 789 (1989). The trial court did not clearly err in finding clear and convincing evidence to support the statutory grounds for termination.

Next, respondent contends that the trial court clearly erred in finding that termination of his parental rights was in the best interests of the children. MCL 712A.19b(5); *Trejo*, 462 Mich at 354-355.

Respondent had a long history of involvement with the DHHS and his children had previously been removed from their parents' custody and placed in foster care. Despite numerous services in the home, the children were removed again in 2013. This time they languished in foster care for over two years while the DHHS and the trial court searched for services that could accommodate respondent's cognitive disabilities. Although respondent attended two series of parenting classes, his parenting skills never improved and he never was

permitted to have unsupervised visitation. Each child had unique special needs. They had physical, cognitive, and emotional challenges. Respondent failed to attend the children's school evaluations or their doctors' appointments. Therefore, he had no information or knowledge to prepare him to address each of the children's special needs. Further, respondent clearly demonstrated that he did not benefit from the services that he received. The teachers and mental health providers all reported that he did not learn the materials presented. At the termination hearing, respondent was no longer with the mother and he was planning for the children by himself.

As the trial court found, there was a strong bond between respondent and the children. But as the trial court also found, respondent was not able to handle them, address their special needs, or provide a home for them. Unfortunately, respondent's cognitive limitations prevented him from improving his parenting skills and providing a home for the children. The children needed permanence, stability, finality, and special care. Three of the children were in pre-adoptive homes. These children should not have to wait any longer when it was clear that, because of his cognitive limitations, respondent would never be in a position where he could provide proper care or custody for his children. Therefore, the trial court did not clearly err in finding that termination of respondent's parental rights was in the best interests of the children.

Affirmed.

/s/ Michael J. Talbot

/s/ Christopher M. Murray

/s/ Deborah A. Servitto